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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,321	11/14/2001	Michael Whitsett	A00333US	5665

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/993,321

Applicant(s)

WHITSETT, MICHAEL

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-9 and 16-32 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 3673

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 7, it is not clear as to what is being defined by "the drive including enlarged members that fit together at the joints between respective pile sections". Such does not appear to be shown or described within the specification. Line 7, "the joints between respective pile sections" lacks antecedent basis within the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turzillo. Turzillo discloses, Fig. 1, an pile apparatus and method of installing a pile system 10 having hollow pile sections 11 with a lowermost pile section connectable to an upper end portion of helical anchor 11/19/20, and an internal drive system formed of sections 16 connectable end to

Art Unit: 3673

end and which fit within the pile sections with the drive including enlarged members 18 that fit at joints 12 between respective pile sections. The anchor 11/19/20 being driven into the ground, col. 2, lines 53-55, and the lowermost or first pile section being connected to the anchor. Filler material is added within the pile sections with at least part of the drive member being removed, (as upper sections 18 and above), before adding the filler material. Turzillo discloses use of a requisite number of pile sections 11, col. 2, lines 5-9. To have provided the Turzillo pile system 10 with any number of pile sections 11, as for example three or more sections including two or more spaced joint positions, with the lowermost section possessing a helical anchor 11/19/20, thus accounting for any depth of hole required, would have constituted an obvious expedient to one of ordinary skill in the art.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turzillo as applied to claims 1 and 10-15 above, and further in view of Baumann.

Baumann teaches a variety of cross sectional shapes for internally threaded coupling means, such as 50, including cylindrical and square, col. 6, lines 38-44. To have formed the Turzillo coupling member or enlarged member 18 of a square cross section, thus realizing the advantages of such known cross section for connectors as for example, ease of turning, would have constituted an obvious expedient to one of ordinary skill in the art as taught by Baumann.

Art Unit: 3673

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turzillo in view of Baumann as applied to claim 2 above, and further in view of Fujita.

Fujita teaches forming pile sections of a circular or square cross sectional shape, Fig. 1 and Figs. 7 and 10. To have formed the pile sections 11 of the modified Turzillo assembly of a square cross section, thus realizing an effective resistance to compression or buckling, would have constituted an obvious expedient to one of ordinary skill in the art as taught by Fujita.


7. Claims 4-9 and 16-32 are allowed.

Response to Arguments

8. Applicant's arguments filed August 04, 2003 have been fully considered but they are not persuasive. Turzillo does disclose pile sections, (a lowermost section), connected to the upper end portion of the helical anchor 11/19/20. Portion 19/20, in its own right, would be considered a helical anchor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.

M. Safavi
November 15, 2003



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**